Assembly Bill No. 408

CHAPTER 603

An act to amend Sections 13009.6, 25160.2, 25210.6, 25217, 25217.1, 25217.2, 25217.3, 25217.4, 25404, 25404.2, 25503.5, 25509, and 25509.2 of, to amend the heading of Article 10.7 (commencing with Section 25217) of Chapter 6.5 of Division 20 of, and to add Section 25217.2.1 to, the Health and Safety Code, and to amend Sections 48701, 48703, and 48705 of the Public Resources Code, relating to the environment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 8, 2011. Filed with Secretary of State October 8, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 408, Wieckowski. Environment: hazardous substances and materials: hazardous waste transportation: paint recycling.

(1) Existing law provides that the expense of a public agency's emergency response to the release, escape, or burning of hazardous substances is a charge against the person whose negligence caused the incident if the incident necessitated an evacuation beyond the property of origin or results in the spread of hazardous substances or fire beyond the property of origin. Existing law defines "hazardous substance" for purposes of these provisions.

This bill would instead provide that these expenses are a charge against the person whose negligence caused the incident if the incident necessitated an evacuation from the building, structure, property, or public right-of-way where the incident originates, or the incident results in the spread of hazardous substances or fire beyond the building, structure, property, or public right-of-way where the incident originates. The bill would also revise the definition of "hazardous substance" for purposes of these provisions.

(2) Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and establishes a procedure for a consolidated manifest to be used by generators and transporters for certain types of hazardous waste. A generator using the consolidated manifesting procedure is required to meet specified requirements, including having an identification number. A violation of the hazardous waste control laws is a crime.

This bill would allow the consolidating manifesting procedure to be used for the receipt, by a transporter, of one shipment of used oil from a generator whose identification number has been suspended, if certain requirements are met. The bill would provide that this exemption would become inoperative on and after January 1, 2014. Since a violation of these

requirements would be a crime, the bill would impose a state-mandated local program.

(3) Existing law defines the term recyclable latex paint and prohibits any person from disposing of latex paint in a specified manner. Existing law allows recyclable latex paint to be accepted at a location if specified requirements are met concerning the management of that paint and exempts a person transporting recyclable latex paint from the manifest and hazardous waste transportation requirements. Existing law also exempts a person recycling recyclable latex paint from hazardous waste facilities permitting requirements.

This bill would revise those provisions to allow a location that accepts recyclable latex paint to also accept oil-based paint, as defined, under specified circumstances with regard to the establishment and operation of the location under the architectural paint recovery program administered by the Department of Resources Recycling and Recovery (CalRecycle). The bill would additionally prohibit the disposal of oil-based paint in that specified manner and would impose additional requirements upon the collection of recyclable latex paint. The bill would require a person to recycle, treat, store, or dispose of oil-based paint only at a facility that is authorized by the department pursuant to the applicable hazardous waste facilities permit requirements or at an out-of-state facility authorized by the state where the facility is located. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(4) Existing law requires a business that handles a hazardous material to adopt a business plan for response to the release of hazardous materials, and to annually submit an inventory to the local administering agency if the business handles a specified amount of hazardous materials at any one time during the reporting year.

This bill would additionally require a business to adopt the plan or inventory for specified lesser or greater amounts of various classes of hazardous materials if the hazardous materials meet certain requirements. The bill would add exemptions for certain oil-filled electrical equipment and mineral oil contained within certain electrical equipment. The bill also would revise the exemption for the on-premise use or storage of propane. The administering agency would be required to make findings regarding the regulation of certain of these hazardous materials in consultation with the local fire chief. The bill would impose a state-mandated local program by imposing new duties upon administering agencies with regard to business plans.

(5) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program, and every county is required to apply to the secretary to be certified to implement the unified program.

This bill would additionally include, in the unified program, persons operating a collection location that has been established under an architectural paint stewardship plan approved by CalRecycle as part of the architectural paint recovery program, thereby imposing a state-mandated local program by imposing new duties upon local agencies.

(6) The bill would make conforming changes regarding the California Fire Code to provisions regarding the unified hazardous waste and hazardous materials management regulatory program and the business plan requirements.

(7) The California Integrated Waste Management Act of 1989, administered by CalRecycle, establishes an architectural paint recovery program that requires a manufacturer or designated stewardship organization to submit an architectural paint stewardship plan to CalRecycle and to implement the plan, as specified. A manufacturer is required to submit a report to CalRecycle by July 1, 2013, and each year thereafter, describing its paint recovery efforts.

This bill would revise the definition of the term "architectural paint" for purposes of the program and would require the annual report to be submitted on or before September 1. The bill would make other technical revisions to the program.

(8) This bill would incorporate additional changes in Section 25217.2 of the Health and Safety Code, proposed in AB 255, that would become operative only if AB 255 and this bill are both chaptered and become effective on or before January 1, 2012, and this bill is chaptered last, in which case Section 25217.2 of the Health and Safety Code, as amended by this bill, would remain operative only until the operative date of AB 255, at which time the changes proposed by both bills would become operative.

(9) This bill would incorporate additional changes in Section 25404 of the Health and Safety Code, proposed in SB 456, that would become operative only if SB 456 and this bill are both chaptered and become effective on or before January 1, 2012, and this bill is chaptered last, in which case Section 25404 of the Health and Safety Code, as amended by this bill, would remain operative only until the operative date of SB 456, at which time the changes proposed by both bills would become operative.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

(11) The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 13009.6 of the Health and Safety Code is amended to read:

13009.6. (a) (1) Those expenses of an emergency response necessary to protect the public from a real and imminent threat to health and safety by a public agency to confine, prevent, or mitigate the release, escape, or burning of hazardous substances described in subdivision (c) are a charge against any person whose negligence causes the incident, if either of the following occurs:

(A) Evacuation from the building, structure, property, or public right-of-way where the incident originates is necessary to prevent loss of life or injury.

(B) The incident results in the spread of hazardous substances or fire posing a real and imminent threat to public health and safety beyond the building, structure, property, or public right-of-way where the incident originates.

(2) Expenses reimbursable to a public agency under this section are a debt of the person liable therefor, and shall be collectible in the same manner as in the case of an obligation under contract, express or implied.

(3) The charge created against the person by this subdivision is also a charge against the person's employer if the negligence causing the incident occurs in the course of the person's employment.

(4) The public agencies participating in an emergency response meeting the requirements of paragraph (1) of this subdivision may designate one or more of the participating agencies to bring an action to recover the expenses incurred by all of the designating agencies which are reimbursable under this section.

(5) An action to recover expenses under this section may be joined with any civil action for penalties, fines, injunctive, or other relief brought against the responsible person or employer, or both, arising out of the same incident.

(b) There shall be deducted from any amount otherwise recoverable under this section, the amount of any reimbursement for eligible costs received by a public agency pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20. The amount so reimbursed may be recovered as provided in Section 25360.

(c) As used in this section, "hazardous substance" means any hazardous substance listed in Section 25316 or subdivision (q) of Section 25501 of this code, or in Section 6382 of the Labor Code.

(d) As used in this section, "mitigate" includes actions by a public agency to monitor or model ambient levels of airborne hazardous substances for the purpose of determining or assisting in the determination of whether or not to evacuate areas around the property where the incident originates, or to determine or assist in the determination of which areas around the property where the incident originates should be evacuated.

SEC. 2. Section 25160.2 of the Health and Safety Code is amended to read:

25160.2. (a) In lieu of the procedures prescribed by Sections 25160 and 25161, transporters and generators of hazardous waste meeting the conditions in this section may use the consolidated manifesting procedure set forth in subdivision (b) to consolidate shipments of waste streams identified in

subdivision (c) collected from multiple generators onto a single consolidated manifest.

(b) The following consolidated manifesting procedure may be used only for non-RCRA hazardous waste or for RCRA hazardous waste that is not required to be manifested pursuant to the federal act or the federal regulations adopted pursuant to the federal act and transported by a registered hazardous waste transporter, and used only with the consent of the generator:

(1) A separate manifest shall be completed by each vehicle driver, with respect to each transport vehicle operated by that driver for each date.

(2) The transporter shall complete both the generator's and the transporter's section of the manifest using the transporter's name, identification number, terminal address, and telephone number. The generator's and transporter's sections shall be completed prior to commencing each day's collections. The driver shall sign and date the generator's and transporter's sections of the manifest.

(3) The transporter shall attach to the front of the manifest legible receipts for each quantity of hazardous waste that is received from a generator. The receipts shall be used to determine the total volume of hazardous waste in the vehicle. After the hazardous waste is delivered, the receipts shall be affixed to the transporter's copy of the manifest. The transporter shall leave a copy of the receipt with the generator of the hazardous waste. The generator shall retain each receipt for at least three years. This period of retention is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department or a certified unified program agency.

(4) All copies of each receipt shall contain all of the following information:

(A) The name, address, identification number, contact person, and telephone number of the generator, and the signature of the generator or the generator's representative.

(B) The date of the shipment.

(C) The manifest number.

(D) The volume or quantity of each waste stream received, its California and RCRA waste codes, the wastestream type listed in subdivision (c), and its proper shipping description, including the hazardous class and United Nations/North America (UN/NA) identification number, if applicable.

(E) The name, address, and identification number of the authorized facility to which the hazardous waste will be transported.

(F) The transporter's name, address, and identification number.

(G) The driver's signature.

(H) A statement, signed by the generator, certifying that the generator has established a program to reduce the volume or quantity and toxicity of the hazardous waste to the degree, as determined by the generator, to be economically practicable.

(5) The transporter shall enter the total volume or quantity of each waste stream transported on the manifest at the change of each date, change of driver, or change of transport vehicle. The total volume or quantity shall be

the cumulative amount of each waste stream collected from the generators listed on the individual receipts. In lieu of submitting a copy of each manifest used, a facility operator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(6) The transporter shall submit the generator copy of the manifest to the department within 30 days of each shipment.

(7) The transporter shall retain a copy of the manifest and all receipts for each manifest at a location within the state for three years. This period of retention is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department or a certified unified program agency.

(8) The transporter shall submit all copies of the manifest to the designated facility. A representative of the designated facility that receives the hazardous waste shall sign and date the manifest, return two copies to the transporter, retain one copy, and send the original to the department within 30 days.

(9) All other manifesting requirements of Sections 25160 and 25161 shall be complied with unless specifically exempted under this section. If an out-of-state receiving facility is not required to submit the signed manifest copy to the department, the consolidated transporter, acting as generator, shall submit a copy of the manifest signed by the receiving facility to the department pursuant to paragraph (3) of subdivision (b) of Section 25160.

(10) Except as provided by subdivision (e), each generator using the consolidated manifesting procedure shall have an identification number, unless exempted from manifesting requirements by action of Section 25143.13 for generators of photographic waste less than 100 kilograms per calendar month.

(c) The consolidated manifesting procedure set forth in subdivision (b) may be used only for the following waste streams and in accordance with the conditions specified below for each waste stream:

(1) Used oil and the contents of an oil/water separator, if the separator is a catch basin, clarifier, or similar collection device that is used to collect water containing residual amounts of one or more of the following: used oil, antifreeze, or other substances and contaminants associated with activities that generate used oil and antifreeze.

(2) The wastes listed in subparagraph (A) may be manifested under the procedures specified in this section only if all of the requirements specified in subparagraphs (B) and (C) are satisfied.

(A) Wastes eligible for consolidated manifesting:

(i) Solids contaminated with used oil.

(ii) Brake fluid.

(iii) Antifreeze.

(iv) Antifreeze sludge.

(v) Parts cleaning solvents, including aqueous cleaning solvents.

(vi) Hydroxide sludge contaminated solely with metals from a wastewater treatment process.

(vii) “Paint-related” wastes, including paints, thinners, filters, and sludges.

(viii) Spent photographic solutions.

(ix) Dry cleaning solvents (including percholoroethylene, naphtha, and silicone based solvents).

(x) Filters, lint, and sludges contaminated with dry cleaning solvent.

(xi) Asbestos and asbestos-containing materials.

(xii) Inks from the printing industry.

(xiii) Chemicals and laboratory packs collected from K–12 schools.

(xiv) Absorbents contaminated with other wastes listed in this section.

(xv) Filters from dispensing pumps for diesel and gasoline fuels.

(xvi) Any other waste, as specified in regulations adopted by the department.

(B) The generator does not generate more than 1,000 kilograms per calendar month of hazardous waste and meets the conditions of paragraph (1) of subdivision (h) of Section 25123.3. For the purpose of calculating the 1,000 kilograms per calendar month limit described in this section, the generator may exclude the volume of used oil and the contents of the oil/water separator that is managed pursuant to paragraph (1) of subdivision (c).

(C) (i) The generator enters into an agreement with the transporter in which the transporter agrees that the transporter will submit a confirmation to the generator that the hazardous waste was transported to an authorized hazardous waste treatment facility for appropriate treatment. The agreement may provide that the hazardous waste will first be transported to a storage or transfer facility in accordance with the applicable provisions of law.

(ii) The treatment requirement specified in clause (i) does not apply to asbestos, asbestos-containing materials, and chemicals and laboratory packs collected from K–12 schools, or any other waste stream for which the department determines there is no reasonably available treatment methodology or facility. These wastes shall be transported to an authorized facility.

(d) Transporters using the consolidated manifesting procedure set forth in this section shall submit quarterly reports to the department 30 days after the end of each quarter. The first quarterly report shall be submitted on October 31, 2002, covering the July to September 2002 period, and every three months thereafter. Except as otherwise specified in paragraph (1), the quarterly report shall be submitted in an electronic format provided by the department.

The department shall make all of the information in the quarterly reports submitted pursuant to this subdivision available to the public, through its usual means of disclosure, except the department shall not disclose the association between any specific transporter and specific generator. The list of generators served by a transporter shall be deemed to be a trade secret and confidential business information for purposes of Section 25173 and Section 66260.2 of Title 22 of the California Code of Regulations.

(1) Transporters that use the consolidated manifesting procedure for less than 1,000 tons per calendar year may apply to the department to continue submitting paper format reports.

(2) For each transporter's name, terminal address, and identification number, the quarterly report shall include the following information for each generator for each consolidated manifest:

(A) The name, address, and identification number, the contact person's name, and the telephone number of each generator.

(B) The date of the shipment.

(C) The manifest number.

(D) The volume or quantity of each waste stream received, its California and RCRA waste code, and the wastestream category listed in subdivision (c).

(e) (1) A transporter may accept and include on a consolidated manifest a maximum of one shipment of used oil from a generator whose identification number has been suspended for a violation of Section 25205.16.

(2) If a transporter accepts a shipment of used oil pursuant to paragraph (1), the transporter shall do both of the following:

(A) Verify that the generator's identification number was suspended for a violation of Section 25205.16.

(B) Notify the department within 24 hours that it accepted the shipment from the generator.

(3) If a generator offers a shipment of used oil to a transporter pursuant to paragraph (1), the generator shall do both of the following:

(A) Notify the department within 24 hours that a transporter accepted a shipment.

(B) Comply with Section 25205.16 within 30 days from the date the transporter accepted the shipment.

(4) This subdivision shall become inoperative on and after January 1, 2014.

SEC. 3. Section 25210.6 of the Health and Safety Code is amended to read:

25210.6. (a) On or before December 31, 2005, the department shall adopt regulations specifying the best management practices for a person managing perchlorate materials. These practices may include, but are not limited to, all of the following:

(1) Procedures for documenting the amount of perchlorate materials managed by the facility.

(2) Management practices necessary to prevent releases of perchlorate materials, including, but not limited to, containment standards, usage, processing and transferring practices, and spill response procedures.

(b) (1) The department shall consult with the State Air Resources Board, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, the California Emergency Management Agency, the State Fire Marshal, and the California certified unified program agencies forum before adopting regulations pursuant to subdivision (a).

(2) The department shall also, before adopting regulations pursuant to subdivision (a), review existing federal, state, and local laws governing the management of perchlorate materials to determine the degree to which

uniform and adequate requirements already exist, so as to avoid any unnecessary duplication of, or interference with the application of, those existing requirements.

(3) In adopting regulations pursuant to subdivision (a), the department shall ensure that those regulations are at least as stringent as, and to the extent practical consistent with, the existing requirements of Chapter 6.95 (commencing with Section 25500) and the California Fire Code governing the management of perchlorate materials.

(c) The regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(d) The department may implement an outreach effort to educate persons who manage perchlorate materials concerning the regulations promulgated pursuant to subdivision (a).

SEC. 4. The heading of Article 10.7 (commencing with Section 25217) of Chapter 6.5 of Division 20 of the Health and Safety Code is amended to read:

Article 10.7. Recyclable Latex Paint and Oil-Based Paint

SEC. 5. Section 25217 of the Health and Safety Code is amended to read:

25217. For the purposes of this article, the following definitions shall apply:

(a) "Conditionally exempt small quantity generator" or "CESQG" means a business concern that meets the criteria for a generator specified in Section 261.5 of Title 40 of the Code of Federal Regulations.

(b) "Consolidation location" means a location to which recyclable latex paint or oil-based paint initially collected at a collection location is transported.

(c) "Oil-based paint" means a paint that contains drying oil, oil varnish, or oil-modified resin as the basic vehicle ingredient.

(d) "Paint" includes both oil-based paint and recyclable latex paint that is collected in accordance with this article.

(e) "Recyclable latex paint" means any water-based latex paint, still in liquid form, that is transferred for the purposes of being recycled.

SEC. 6. Section 25217.1 of the Health and Safety Code is amended to read:

25217.1. No person shall dispose of, or attempt to dispose of, liquid latex paint or oil-based paint in the land or into the waters of the state unless authorized by applicable provisions of law.

SEC. 7. Section 25217.2 of the Health and Safety Code is amended to read:

25217.2. Recyclable latex paint may be accepted at any location if all of the following conditions are met:

(a) The location manages the recyclable latex paint in accordance with all applicable latex paint product management procedures specified by federal, state, or local law or regulation that include, at a minimum, that the recyclable latex paint is stored and handled in a manner that minimizes the chance of exposing the handler and the environment to potentially hazardous constituents that may be in, or have been incidentally added to, the recyclable latex paint.

(b) The recyclable latex paint is still in liquid form and is in its original packaging or is in a closed container that is clearly labeled.

(c) Any latex paint that is accepted as recyclable by the location and that is later discovered to be nonrecyclable shall be deemed to be a waste generated at the location where this discovery is made and this latex paint shall be managed as a waste in accordance with this chapter.

(d) The owner or operator of the location has a business plan that meets the requirements of Section 25504, if required by the administrating agency, including, but not limited to, emergency response plans and procedures, as described in subdivision (b) of Section 25504. The plans and procedures shall specifically address recyclable latex paint or meet the department's emergency response and contingency requirements which are applicable to generators of hazardous waste.

(e) If the recyclable latex paint is not excluded or exempted from regulation under Chapter I (commencing with Section 1.1) of Title 40 of the Code of Federal Regulations, the location meets all applicable federal requirements.

(f) The recyclable latex paint is stored for no longer than 180 days.

SEC. 7.5. Section 25217.2 of the Health and Safety Code is amended to read:

25217.2. (a) Recyclable latex paint may be accepted at any location including, but not limited to, a permanent household hazardous waste collection facility in accordance with subdivision (b), if all of the following conditions are met:

(1) The location manages the recyclable latex paint in accordance with all applicable latex paint product management procedures specified by federal, state, or local law or regulation that include, at a minimum, that the recyclable latex paint is stored and handled in a manner that minimizes the chance of exposing the handler and the environment to potentially hazardous constituents that may be in, or have been incidentally added to, the recyclable latex paint.

(2) The recyclable latex paint is still in liquid form and is in its original packaging or is in a closed container that is clearly labeled.

(3) Any latex paint that is accepted as recyclable by the location and that is later discovered to be nonrecyclable shall be deemed to be a waste generated at the location where this discovery is made and this latex paint shall be managed as a waste in accordance with this chapter.

(4) The owner or operator of the location has a business plan that meets the requirements of Section 25504, if required by the administrating agency, including, but not limited to, emergency response plans and procedures, as described in subdivision (b) of Section 25504. The plans and procedures shall specifically address recyclable latex paint or meet the department's emergency response and contingency requirements which are applicable to generators of hazardous waste.

(5) If the recyclable latex paint is not excluded or exempted from regulation under Chapter I (commencing with Section 1.1) of Title 40 of the Code of Federal Regulations, the location meets all applicable federal requirements.

(6) The recyclable latex paint is stored for no longer than 180 days.

(b) (1) For purposes of this subdivision the following definitions shall apply:

(A) "CESQG" means a conditionally exempt small quantity generator, as specified in subdivision (a) of Section 25218.1.

(B) "Permanent household hazardous waste collection facility" has the same meaning as defined in subdivision (h) of Section 25218.1.

(2) A permanent household hazardous waste collection facility that is authorized to accept hazardous waste from a CESQG pursuant to Section 25218.3 may accept recyclable latex paint from any generator in accordance with this article if the permanent household hazardous waste collection facility does all of the following:

(A) Complies with subdivision (a).

(B) Sends the recyclable latex paint, for recycling, to a latex paint recycling facility operating pursuant to this article.

(C) Maintains a monthly log of the volume of latex paint collected from each generator and submits that information annually with the report submitted pursuant to Section 25218.9 for household hazardous waste collected from household hazardous waste generators.

(3) A permanent household hazardous waste collection facility that takes the actions specified in paragraph (2) is not subject to subdivision (b) of Section 25218.3.

(4) A permanent household waste collection facility may take the action specified in paragraph (2) notwithstanding any permit condition imposed upon the facility, a regulation adopted by the department to ensure a household hazardous waste collection facility does not accept hazardous waste from a commercial generator other than a CESQG, or the status of the generator.

SEC. 8. Section 25217.2.1 is added to the Health and Safety Code, to read:

25217.2.1. (a) A location that accepts recyclable latex paint pursuant to Section 25217.2 may also accept oil-based paint if all of the additional following conditions are met:

(1) The collection location is established under an architectural paint stewardship plan approved by the Department of Resources Recycling and Recovery pursuant to the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(2) The collection location receives oil-based paint only from either of the following:

(A) A person who generates oil-based paint incidental to owning or maintaining a place of residence.

(B) A conditionally exempt small quantity generator.

(3) The oil-based paint is still in liquid form and is in its original packaging or is in a closed container that is clearly labeled.

(4) The location manages the oil-based paint in accordance with the requirements in Section 25217.2.

(5) The collection location operates pursuant to a contract with a manufacturer or paint stewardship organization that has submitted an architectural paint stewardship plan that has been approved by the Department of Resources Recycling and Recovery and the collected paint is managed in accordance with that approved architectural paint stewardship plan.

(6) The oil-based paint is stored for no longer than 180 days.

(b) Oil-based paint initially collected at a collection location shall be deemed to be generated at the consolidation location for purposes of this chapter, if all of the following apply:

(1) The collection location is established under an architectural paint stewardship plan in accordance with the requirements of paragraph (1) of subdivision (a).

(2) The oil-based paint is subsequently transported to a consolidation location that is operating pursuant to a contract with a manufacturer or paint stewardship organization under an architectural paint stewardship plan that has been approved by the Department of Resources Recycling and Recovery pursuant to the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(3) The oil-based paint is non-RCRA hazardous waste, or is otherwise exempt from, or is not otherwise regulated pursuant to, the federal act.

SEC. 9. Section 25217.3 of the Health and Safety Code is amended to read:

25217.3. (a) Notwithstanding Sections 25160 and 25163, a person may transport paint collected in accordance with this article without the use of a manifest or obtaining registration as a hazardous waste hauler if the transporter complies with this article.

(b) A person transporting paint collected in accordance with this article shall use a bill of lading to document the transportation of the paint from

collection locations, or any interim locations, to a consolidation site, whenever the transportation involves a change in ownership of the paint. A copy of the bill of lading shall be kept by the originating location, transporter, and destination of the paint for a period of at least three years and shall include all of the following information:

(1) The name, address, and telephone number of the originating location, the transporter, and the destination of the paint.

(2) The quantity of the paint being transported.

(3) The date on which the transporter accepts the paint from the originating location.

(4) The signatures of the transporter and a representative of the originating location.

SEC. 10. Section 25217.4 of the Health and Safety Code is amended to read:

25217.4. (a) A person may recycle recyclable latex paint at a facility which is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if the person complies with Section 25217.2.

(b) A person shall recycle, treat, store, or dispose of oil-based paint that has been collected pursuant to this article only at a facility that is authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) to recycle, treat, store, or dispose of hazardous waste, or at an out-of-state facility that is authorized to recycle, treat, store, or dispose of oil-based paint in the state where the facility is located.

SEC. 11. Section 25404 of the Health and Safety Code is amended to read:

25404. (a) For purposes of this chapter, the following terms shall have the following meanings:

(1) (A) "Certified Unified Program Agency" or "CUPA" means the agency certified by the secretary to implement the unified program specified in this chapter within a jurisdiction.

(B) "Participating Agency" or "PA" means a state or local agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

(C) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After

a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) "Department" means the Department of Toxic Substances Control.

(3) "Minor violation" means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter, and that does not otherwise include any of the following:

(A) A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.

(B) A knowing, willful, or intentional violation.

(C) A violation that is a chronic violation, or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(D) A violation that results in an emergency response from a public safety agency.

(E) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

(F) A class I violation as provided in Section 25117.6.

(G) A class II violation committed by a chronic or a recalcitrant violator, as provided in Section 25117.6.

(H) A violation that hinders the ability of the UPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.

(4) "Secretary" means the Secretary for Environmental Protection.

(5) "Unified program facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c).

(6) "Unified program facility permit" means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and permit or authorization requirements under a local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the California Fire Code or the California Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Secretary of California Emergency Management, the State Fire Marshal,

the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

(c) The unified program shall consolidate the administration of the following requirements and, to the maximum extent feasible within statutory constraints, shall ensure the coordination and consistency of any regulations adopted pursuant to those requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, that are applicable to all of the following:

(i) Hazardous waste generators, persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department.

(ii) Persons managing perchlorate materials.

(iii) Persons subject to Article 10.1 (commencing with Section 25211) of Chapter 6.5.

(iv) Persons operating a collection location that has been established under an architectural paint stewardship plan approved by the Department of Resources Recycling and Recovery pursuant to the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(B) The unified program shall not include the requirements of paragraph (3) of subdivision (c) of Section 25200.3, the requirements of Sections 25200.10 and 25200.14, and the authority to issue an order under Sections 25187 and 25187.1, with regard to those portions of a unified program facility that are subject to one of the following:

(i) A corrective action order issued by the department pursuant to Section 25187.

(ii) An order issued by the department pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iii) A remedial action plan approved pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iv) A cleanup and abatement order issued by a California regional water quality control board pursuant to Section 13304 of the Water Code, to the extent that the cleanup and abatement order addresses the requirements of the applicable section or sections listed in this subparagraph.

(v) Corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

(vi) An environmental assessment pursuant to Section 25200.14 or a corrective action pursuant to Section 25200.10 or paragraph (3) of subdivision (c) of Section 25200.3, that is being overseen by the department.

(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.

(2) The requirements of Chapter 6.67 (commencing with Section 25270) concerning aboveground storage tanks.

(3) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.7 (commencing with Section 25280) concerning underground storage tanks and the requirements of any underground storage tank ordinance adopted by a city or county.

(B) The unified program shall not include the responsibilities assigned to the State Water Resources Control Board pursuant to Section 25297.1.

(C) The unified program shall not include the corrective action requirements of Sections 25296.10 to 25296.40, inclusive.

(4) The requirements of Article 1 (commencing with Section 25500) of Chapter 6.95 concerning hazardous material release response plans and inventories.

(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements of Sections 2701.5.1 and 2701.5.2 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9 concerning hazardous material management plans and inventories.

(d) To the maximum extent feasible within statutory constraints, the secretary shall consolidate, coordinate, and make consistent these requirements of the unified program with other requirements imposed by other federal, state, regional, or local agencies upon facilities regulated by the unified program.

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c). Those standards shall incorporate any standard developed under Section 25503.3.

(2) (A) No later than January 1, 2010, the secretary shall establish a statewide information management system capable of receiving all data collected by the unified program agencies and reported by regulated businesses pursuant to this subdivision and Section 25504.1, in a manner that is most cost efficient and effective for both the regulated businesses and state and local agencies. The secretary shall prescribe an XML or other compatible Web-based format for the transfer of data from CUPAs and regulated businesses and make all nonconfidential data available on the Internet.

(B) The secretary shall establish milestones to measure the implementation of the statewide information management system and shall provide periodic status updates to interested parties.

(3) (A) (i) Except as provided in subparagraph (B), in addition to any other funding that becomes available, the secretary shall increase the oversight surcharge provided for in subdivision (b) of Section 25404.5 by an amount necessary to meet the requirements of this subdivision for a period of three years, to establish the statewide information management system, consistent with paragraph (2). The increase in the oversight surcharge shall not exceed twenty-five dollars ($25) in any one year of the three-year period. The secretary shall thereafter maintain the statewide information management system, funded by the assessment the secretary is authorized to impose pursuant to Section 25404.5.

(ii) No less than 75 percent of the additional funding raised pursuant to clause (i) shall be provided to CUPAs and PAs through grant funds or statewide contract services, in the amounts determined by the secretary to assist these local agencies in meeting these information management system requirements.

(B) A facility that is owned or operated by the federal government and that is subject to the unified program shall pay the surcharge required by this paragraph to the extent authorized by federal law.

(C) The secretary, or one or more of the boards, departments, or offices within the California Environmental Protection Agency, shall seek available federal funding for purposes of implementing this subdivision.

(4) No later than three years after the statewide information management system is established, each CUPA, PA, and regulated business shall report program data electronically. The secretary shall work with the CUPAs to develop a phased in schedule for the electronic collection and submittal of information to be included in the statewide information management system, giving first priority to information relating to those chemicals determined by the secretary to be of greatest concern. The secretary, in making this determination shall consult with the CUPAs, the California Emergency Management Agency, the State Fire Marshal, and the boards, departments, and offices within the California Environmental Protection Agency. The information initially included in the statewide information management system shall include, but is not limited to, the hazardous materials inventory information required to be submitted pursuant to Section 25504.1 for perchlorate materials.

(5) The secretary, in collaboration with the CUPAs, shall provide technical assistance to regulated businesses to comply with the electronic reporting requirements and may expend funds identified in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

SEC. 11.5. Section 25404 of the Health and Safety Code is amended to read:

25404. (a) For purposes of this chapter, the following terms shall have the following meanings:

(1) (A) "Certified Unified Program Agency" or "CUPA" means the agency certified by the secretary to implement the unified program specified in this chapter within a jurisdiction.

(B) "Participating Agency" or "PA" means a state or local agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

(C) "Unified Program Agency" or "UPA" means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) "Department" means the Department of Toxic Substances Control.

(3) "Minor violation" means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter, and that does not otherwise include any of the following:

(A) A violation that results in injury to persons or property, or that presents a significant threat to human health or the environment.

(B) A knowing, willful, or intentional violation.

(C) A violation that is a chronic violation, or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the UPA shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(D) A violation that results in an emergency response from a public safety agency.

(E) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

(F) A class I violation as provided in Section 25117.6.

(G) A class II violation committed by a chronic or a recalcitrant violator, as provided in Section 25117.6.

(H) A violation that hinders the ability of the UPA to determine compliance with any other applicable local, state, or federal rule, regulation, information request, order, variance, permit, or other requirement.

(4) "Secretary" means the Secretary for Environmental Protection.

(5) "Unified program facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c).

(6) "Unified program facility permit" means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and permit or authorization requirements under a local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the California Fire Code or the California Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Secretary of California Emergency Management, the State Fire Marshal, the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

(c) The unified program shall consolidate the administration of the following requirements and, to the maximum extent feasible within statutory constraints, shall ensure the coordination and consistency of any regulations adopted pursuant to those requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, that are applicable to all of the following:

(i) Hazardous waste generators, persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department.

(ii) Persons managing perchlorate materials.

(iii) Persons subject to Article 10.1 (commencing with Section 25211) of Chapter 6.5.

(iv) Persons operating a collection location that has been established under an architectural paint stewardship plan approved by the Department of Resources Recycling and Recovery pursuant to the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code.

(v) On and before December 31, 2019, a transfer facility, as described in paragraph (3) of subdivision (a) of Section 25123.3, that is operated by a door-to-door household hazardous waste collection program or household hazardous waste residential pickup service, as defined in subdivision (c) of

Section 25218.1. On and after January 1, 2020, the unified program shall not include a transfer facility operated by a door-to-door household hazardous waste collection program.

(B) The unified program shall not include the requirements of paragraph (3) of subdivision (c) of Section 25200.3, the requirements of Sections 25200.10 and 25200.14, and the authority to issue an order under Sections 25187 and 25187.1, with regard to those portions of a unified program facility that are subject to one of the following:

(i) A corrective action order issued by the department pursuant to Section 25187.

(ii) An order issued by the department pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iii) A remedial action plan approved pursuant to Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(iv) A cleanup and abatement order issued by a California regional water quality control board pursuant to Section 13304 of the Water Code, to the extent that the cleanup and abatement order addresses the requirements of the applicable section or sections listed in this subparagraph.

(v) Corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

(vi) An environmental assessment pursuant to Section 25200.14 or a corrective action pursuant to Section 25200.10 or paragraph (3) of subdivision (c) of Section 25200.3, that is being overseen by the department.

(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.

(2) The requirements of Chapter 6.67 (commencing with Section 25270) concerning aboveground storage tanks.

(3) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.7 (commencing with Section 25280) concerning underground storage tanks and the requirements of any underground storage tank ordinance adopted by a city or county.

(B) The unified program shall not include the responsibilities assigned to the State Water Resources Control Board pursuant to Section 25297.1.

(C) The unified program shall not include the corrective action requirements of Sections 25296.10 to 25296.40, inclusive.

(4) The requirements of Article 1 (commencing with Section 25500) of Chapter 6.95 concerning hazardous material release response plans and inventories.

(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements of Sections 2701.5.1 and 2701.5.2 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9 concerning hazardous material management plans and inventories.

(d) To the maximum extent feasible within statutory constraints, the secretary shall consolidate, coordinate, and make consistent these requirements of the unified program with other requirements imposed by other federal, state, regional, or local agencies upon facilities regulated by the unified program.

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c). Those standards shall incorporate any standard developed under Section 25503.3.

(2) (A) No later than January 1, 2010, the secretary shall establish a statewide information management system capable of receiving all data collected by the unified program agencies and reported by regulated businesses pursuant to this subdivision and Section 25504.1, in a manner that is most cost efficient and effective for both the regulated businesses and state and local agencies. The secretary shall prescribe an XML or other compatible Web-based format for the transfer of data from CUPAs and regulated businesses and make all nonconfidential data available on the Internet.

(B) The secretary shall establish milestones to measure the implementation of the statewide information management system and shall provide periodic status updates to interested parties.

(3) (A) (i) Except as provided in subparagraph (B), in addition to any other funding that becomes available, the secretary shall increase the oversight surcharge provided for in subdivision (b) of Section 25404.5 by an amount necessary to meet the requirements of this subdivision for a period of three years, to establish the statewide information management system, consistent with paragraph (2). The increase in the oversight surcharge shall not exceed twenty-five dollars ($25) in any one year of the three-year period. The secretary shall thereafter maintain the statewide information management system, funded by the assessment the secretary is authorized to impose pursuant to Section 25404.5.

(ii) No less than 75 percent of the additional funding raised pursuant to clause (i) shall be provided to CUPAs and PAs through grant funds or statewide contract services, in the amounts determined by the secretary to assist these local agencies in meeting these information management system requirements.

(B) A facility that is owned or operated by the federal government and that is subject to the unified program shall pay the surcharge required by this paragraph to the extent authorized by federal law.

(C) The secretary, or one or more of the boards, departments, or offices within the California Environmental Protection Agency, shall seek available federal funding for purposes of implementing this subdivision.

(4) No later than three years after the statewide information management system is established, each CUPA, PA, and regulated business shall report program data electronically. The secretary shall work with the CUPAs to develop a phased in schedule for the electronic collection and submittal of information to be included in the statewide information management system, giving first priority to information relating to those chemicals determined by the secretary to be of greatest concern. The secretary, in making this determination shall consult with the CUPAs, the California Emergency Management Agency, the State Fire Marshal, and the boards, departments, and offices within the California Environmental Protection Agency. The information initially included in the statewide information management system shall include, but is not limited to, the hazardous materials inventory information required to be submitted pursuant to Section 25504.1 for perchlorate materials.

(5) The secretary, in collaboration with the CUPAs, shall provide technical assistance to regulated businesses to comply with the electronic reporting requirements and may expend funds identified in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

SEC. 12. Section 25404.2 of the Health and Safety Code is amended to read:

25404.2. (a) The unified program agencies in each jurisdiction shall do all of the following:

(1) (A) The certified unified program agency shall develop and implement a procedure for issuing, to a unified program facility, a unified program facility permit that would replace any permit required by Section 25284 and any permit or authorization required under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but that would not replace a permit issued pursuant to a local ordinance that incorporates provisions of the California Fire Code and California Building Code.

(B) The unified program facility permit, and, if applicable, an authorization to operate pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department, are the only grants of authorization required under the unified program elements specified in subdivision (c) of Section 25404.

(C) The unified program agencies shall enforce the elements of a unified program facility permit in the same manner as the permits replaced by the unified program facility permit would be enforced.

(D) If a unified program facility is operating pursuant to the applicable grants of authorization that would otherwise be included in a unified program facility permit for the activities in which the facility is engaged, the unified program agencies shall not require that unified program facility to obtain a unified program facility permit as a condition of operating pursuant to the unified program elements specified in subdivision (c) of Section 25404 and any permit or authorization required under any local ordinance or regulation

relating to the generation or handling of hazardous waste or hazardous materials.

(E) This subparagraph applies to unified program facilities that have existing, not yet expired, grants of authorization for some, but not all, of the authorization requirements encompassed in the unified program facility permit. When issuing a unified program facility permit to such a unified program facility, the unified program agency shall incorporate, by reference, into the unified program facility permit any of the facility's existing, not yet expired, grants of authorization.

(2) To the maximum extent feasible within statutory constraints, the certified unified program agency, in conjunction with participating agencies, shall consolidate, coordinate, and make consistent any local or regional regulations, ordinances, requirements, or guidance documents related to the implementation of subdivision (c) of Section 25404 or pursuant to any regional or local ordinance or regulation pertaining to hazardous waste or hazardous materials. This paragraph does not affect the authority of a unified program agency with regard to the preemption of the unified program agency's authority under state law.

(3) The certified unified program agency, in conjunction with participating agencies, shall develop and implement a single, unified inspection and enforcement program to ensure coordinated, efficient, and effective enforcement of subdivision (c) of Section 25404, and any local ordinance or regulation pertaining to the handling of hazardous waste or hazardous materials.

(4) The certified unified program agency, in conjunction with participating agencies, shall coordinate, to the maximum extent feasible, the single, unified inspection and enforcement program with the inspection and enforcement program of other federal, state, regional, and local agencies that affect facilities regulated by the unified program. This paragraph does not prohibit the unified program agencies, or any other agency, from conducting inspections, or from undertaking any other enforcement-related activity, without giving prior notice to the regulated entity, except if the prior notice is otherwise required by law.

(b) An employee or authorized representative of a unified program agency or a state agency acting pursuant to this chapter has the authority specified in Section 25185, with respect to the premises of a handler, and in Section 25185.5, with respect to real property that is within 2,000 feet of the premises of a handler, except that this authority shall include inspections concerning hazardous material, in addition to hazardous waste.

(c) Each air quality management district or air pollution control district, each publicly owned treatment works, and each office, board, and department within the California Environmental Protection Agency, shall coordinate, to the maximum extent feasible, those aspects of its inspection and enforcement program that affect facilities regulated by the unified program with the inspection and enforcement programs of each certified unified program agency.

(d) The certified unified program agency, in conjunction with participating agencies, may incorporate, as part of the unified program within its jurisdiction, the implementation and enforcement of laws that the unified program agencies are authorized to implement and enforce, other than those specified in subdivision (c) of Section 25404, if that incorporation will not impair the ability of the unified program agencies to fully implement the requirements of subdivision (a).

(e) (1) The withdrawal of an application for a unified program facility permit after it has been filed with the unified program agency shall not, unless the unified program agency consents in writing to the withdrawal, deprive the unified program agencies of their authority to institute or continue a proceeding against the applicant for the denial of the unified program facility permit upon any ground provided by law, and this withdrawal shall not affect the authority of the unified program agencies to institute or continue a proceeding against the applicant pertaining to any violation of the requirements specified in subdivision (c) of Section 25404 or of any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials.

(2) The suspension, expiration, or forfeiture by operation of law of a unified program facility permit, or its suspension, forfeiture, or cancellation by the unified program agency or by order of a court, or its surrender or attempted or actual transfer without the written consent of the unified program agency shall not affect the authority of the unified program agencies to institute or continue a disciplinary proceeding against the holder of a unified program facility permit upon any ground, or otherwise taking an action against the holder of a unified program facility permit on these grounds.

SEC. 13. Section 25503.5 of the Health and Safety Code is amended to read:

25503.5. (a) (1) A business, except as provided in subdivisions (b), (c), and (d), shall establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards prescribed in the regulations adopted pursuant to Section 25503, if the business handles a hazardous material or a mixture containing a hazardous material that has a quantity at any one time during the reporting year that is any of the following:

(A) Except as provided in subparagraphs (C), (D), or (F), equal to, or greater than, a total weight of 500 pounds or a total volume of 55 gallons.

(B) Except as provided in subparagraphs (E) or (F), equal to, or greater than, 200 cubic feet at standard temperature and pressure, if the substance is compressed gas.

(C) The threshold planning quantity, under both of the following conditions:

(i) The hazardous material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations.

(ii) The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing with

Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.

(D) A total weight of 5,000 pounds, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, unless the administering agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(E) (i) A total of 1,000 cubic feet, if the hazardous material is a gas at standard temperature and pressure and is classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations solely as a compressed gas, unless the administering agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(ii) The hazardous materials subject to this subparagraph include a gas for which the only health and physical hazards are simple asphyxiation and the release of pressure.

(iii) The hazardous materials subject to this subparagraph do not include gases in a cryogenic state.

(F) If the substance is a radioactive material, it is handled in quantities for which an emergency plan is required to be adopted pursuant to Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1), of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.

(2) In meeting the requirements of this subdivision, a business may, if it elects to do so, use the format adopted pursuant to Section 25503.4.

(3) The administering agency shall make the findings required by subparagraphs (D) and (E) of paragraph (1) in consultation with the local fire chief.

(b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily maintained by a physician, dentist, podiatrist, veterinarian, or pharmacist, at his or her office or place of business, stored at each office or place of business in quantities of not more than 1,000 cubic feet of each material at any one time, are exempt from this section and from Section 25505. The administering agency may require a one-time inventory of these materials for a fee not to exceed fifty dollars ($50) to pay for the costs incurred by the agency in processing the inventory forms.

(2) (A) Lubricating oil is exempt from this section and Sections 25505 and 25509, for a single business facility, if the total volume of each type of lubricating oil handled at that facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

(B) For purposes of this paragraph, "lubricating oil" means any oil intended for use in an internal combustion crankcase, or the transmission, gearbox, differential, or hydraulic system of an automobile, bus, truck, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion or electric powered engine. "Lubricating oil" does not include used oil, as defined in subdivision (a) of Section 25250.1.

(3) Oil-filled electrical equipment that is not contiguous to an electric facility is exempt from this section and Sections 25505 and 25509 if the aggregate capacity is less than 1,320 gallons.

(c) (1) Hazardous material contained solely in a consumer product for direct distribution to, and use by, the general public is exempt from the business plan requirements of this article unless the administering agency has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(2) In addition to the authority specified in paragraph (4), the administering agency may, in exceptional circumstances, following notice and public hearing, exempt from the inventory provisions of this article any hazardous substance specified in subdivision (q) of Section 25501 if the administering agency finds that the hazardous substance would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance was released into the environment. The administering agency shall specify in writing the basis for granting any exemption under this paragraph. The administering agency shall send a notice to the agency within five days from the effective date of any exemption granted pursuant to this paragraph.

(3) The administering agency, upon application by a handler, may exempt the handler, under conditions that the administering agency determines to be proper, from any portion of the business plan, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment or affect the ability of the administering agency and emergency rescue personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The administering agency shall specify in writing the basis for any exemption under this paragraph.

(4) The administering agency, upon application by a handler, may exempt a hazardous material from the inventory provisions of this article upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The administering agency shall specify in writing the basis for any exemption under this paragraph.

(5) An administering agency shall exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the information in the business plan required by subdivisions (b) and (c) of Section 25504 if all of the following requirements are met:

(A) The handler annually provides the inventory of information required by Section 25509 to the county agricultural commissioner before January 1 of each year.

(B) Each building in which hazardous materials subject to this article are stored is posted with signs, in accordance with regulations that the agency shall adopt, that provide notice of the storage of any of the following:

(i) Pesticides.

(ii) Petroleum fuels and oil.

(iii) Types of fertilizers.

(C) Each county agricultural commissioner forwards the inventory to the administering agency within 30 days from the date of receipt of the inventory.

(6) The administering agency shall exempt a business operating an unstaffed remote facility located in an isolated sparsely populated area from the hazardous materials business plan and inventory requirements of this article if the facility is not otherwise subject to the requirements of applicable federal law, and all of the following requirements are met:

(A) The types and quantities of materials onsite are limited to one or more of the following:

(i) Five hundred standard cubic feet of compressed inert gases (asphyxiation and pressure hazards only).

(ii) Five hundred gallons of combustible liquid used as a fuel source.

(iii) Two hundred gallons of corrosive liquids used as electrolytes in closed containers.

(iv) Five hundred gallons of lubricating and hydraulic fluids.

(v) One thousand two hundred gallons of flammable gas used as a fuel source.

(vi) Any quantity of mineral oil contained within electrical equipment, such as transformers, bushings, electrical switches, and voltage regulators, if a spill prevention control and countermeasure plan has been prepared for quantities in excess of 1,320 gallons.

(B) The facility is secured and not accessible to the public.

(C) Warning signs are posted and maintained for hazardous materials pursuant to the California Fire Code.

(D) A one-time notification and inventory are provided to the administering agency along with a processing fee in lieu of the existing fee. The fee shall not exceed the actual cost of processing the notification and inventory, including a verification inspection, if necessary.

(E) If the information contained in the initial notification or inventory changes and the time period of the change is longer than 30 days, the notification or inventory shall be resubmitted within 30 days to the administering agency to reflect the change, along with a processing fee, in lieu of the existing fee, that does not exceed the actual cost of processing the amended notification or inventory, including a verification inspection, if necessary.

(F) The administering agency shall forward a copy of the notification and inventory to those agencies that share responsibility for emergency response.

(G) The administering agency may require an unstaffed remote facility to submit a hazardous materials business plan and inventory in accordance with this article if the agency finds that special circumstances exist such that development and maintenance of the business plan and inventory are necessary to protect public health and safety and the environment.

(d) On-premise use, storage, or both, of propane in an amount not to exceed 500 gallons that is for the sole purpose of cooking, heating the employee work areas, and heating water, within that business, is exempt from this section, unless the administering agency finds, and provides notice to the business handling the propane, that the handling of the on-premise propane requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(e) The administering agency shall provide all information obtained from completed inventory forms, upon request, to emergency rescue personnel on a 24-hour basis.

(f) The administering agency shall adopt procedures to provide for public input when approving any applications submitted pursuant to paragraph (3) or (4) of subdivision (c).

SEC. 14. Section 25509 of the Health and Safety Code is amended to read:

25509. (a) The annual inventory form shall include, but shall not be limited to, information on all of the following which are handled in quantities equal to or greater than the quantities specified in subdivision (a) of Section 25503.5:

(1) A listing of the chemical name and common names of every hazardous substance or chemical product handled by the business.

(2) The category of waste, including the general chemical and mineral composition of the waste listed by probable maximum and minimum concentrations, of every hazardous waste handled by the business.

(3) A listing of the chemical name and common names of every other hazardous material or mixture containing a hazardous material handled by the business that is not otherwise listed pursuant to paragraph (1) or (2).

(4) The maximum amount of each hazardous material or mixture containing a hazardous material disclosed in paragraphs (1), (2), and (3) that is handled at any one time by the business over the course of the year.

(5) Sufficient information on how and where the hazardous materials disclosed in paragraphs (1), (2), and (3) are handled by the business to allow fire, safety, health, and other appropriate personnel to prepare adequate emergency responses to potential releases of the hazardous materials.

(6) The SIC Code number of the business if applicable.

(7) The name and telephone number of the person representing the business and able to assist emergency personnel in the event of an emergency involving the business during nonbusiness hours.

(b) If the local fire chief requires the business to comply with the requirements of subdivision (c) of Section 2701.5.2 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9, the business shall also file the addendum required by Section 25503.9 with the administering agency.

(c) The administering agency may permit the reporting of the amount of hazardous material under this section by ranges, rather than a specific amount, as long as those ranges provide the information necessary to meet the needs of emergency rescue personnel, to determine the potential hazard from a release of the materials, and meets the purposes of this chapter.

(d) (1) Except as provided in subdivision (e), the annual inventory form required by this section shall also include all inventory information required by Section 11022 of Title 42 of the United States Code, as that section read on January 1, 1989, or as it may be subsequently amended.

(2) The agency may adopt or amend existing regulations specifying the inventory information required by this subdivision.

(e) If, pursuant to federal law or regulation, as it currently exists or as it may be amended, there is a determination that the inventory information required by subdivisions (a) and (c) is substantially equivalent to the inventory information required under the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.), the requirements of subdivision (d) shall not apply.

SEC. 15. Section 25509.2 of the Health and Safety Code is amended to read:

25509.2. (a) The Legislature hereby finds and declares all of the following:

(1) Persons attempting to do business in this state are increasingly experiencing excessive and duplicative regulatory requirements at different levels of government.

(2) To streamline and ease the regulatory burdens of doing business in this state, compliance with the hazardous materials release response plans and inventory requirements of this chapter shall also suffice to meet the requirements of the California Fire Code with regard to the requirement for a hazardous materials management plan and hazardous materials inventory statement, as set forth in Chapter 27 of the California Fire Code and its appendices.

(3) Businesses which are required to comply with this chapter do so on one form, with one fee and one inspection. The administering agency shall forward the data collected, within 15 days of receipt and confirmation, with other local agencies in a format easily interpreted by those agencies with shared responsibilities for protection of the public health and safety and the environment.

(4) Enforcement of this chapter and the California Fire Code shall be coordinated.

(b) Notwithstanding Section 13143.9, and any standards and regulations adopted pursuant to that section, a business that files the annual inventory form in compliance with this article, including the addendum adopted

pursuant to Section 25503.9, as required by the local fire chief to comply with Section 2701.5.2 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9, shall be deemed to have met the requirements of Section 2701.5.2 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9.

(c) Notwithstanding Section 13143.9, and any standards and regulations adopted pursuant to that section, a business that establishes and maintains a business plan for emergency response to a release or a threatened release of a hazardous material in accordance with Section 25503.5, shall be deemed to have met the requirements of Section 2701.5.1 of the California Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9.

(d) Except for the addendum required by the local fire chief, the administering agency shall be the sole enforcement agency for purposes of determining compliance pursuant to subdivisions (b) and (c).

(e) Except as otherwise expressly provided in this section, this section does not affect or otherwise limit the authority of the local fire chief to enforce the California Fire Code.

SEC. 16. Section 48701 of the Public Resources Code is amended to read:

48701. For purposes of this chapter, the following terms have the following meanings:

(a) "Architectural paint" means interior and exterior architectural coatings, sold in containers of five gallons or less for commercial or homeowner use, but does not include aerosol spray paint or coatings purchased for industrial or original equipment manufacturer use.

(b) "Consumer" means a purchaser or owner of architectural paint, including a person, business, corporation, limited partnership, nonprofit organization, or governmental entity.

(c) "Department" means the Department of Resources Recycling and Recovery.

(d) "Distributor" means a person that has a contractual relationship with one or more manufacturers to market and sell architectural paint to retailers.

(e) "Manufacturer" means a manufacturer of architectural paint.

(f) "Postconsumer paint" means architectural paint not used by the purchaser.

(g) "Retailer" means a person that sells architectural paint in the state to a consumer. A sale includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means.

(h) "Stewardship organization" means a nonprofit organization created by the manufacturers to implement the architectural paint stewardship program described in Section 48703.

SEC. 17. Section 48703 of the Public Resources Code is amended to read:

48703. (a) On or before April 1, 2012, a manufacturer or designated stewardship organization shall submit an architectural paint stewardship plan to the department.

(b) (1) The plan shall demonstrate sufficient funding for the architectural paint stewardship program as described in the plan, including a funding mechanism for securing and dispersing funds to cover administrative, operational, and capital costs, including the assessment of charges on architectural paint sold by manufacturers in this state.

(2) The funding mechanism shall provide for an architectural paint stewardship assessment for each container of architectural paint sold by manufacturers in this state and the assessment shall be remitted to the stewardship organization, if applicable.

(3) The architectural paint stewardship assessment shall be added to the cost of all architectural paint sold to California retailers and distributors, and each California retailer or distributor shall add the assessment to the purchase price of all architectural paint sold in the state.

(4) The architectural paint stewardship assessment shall be approved by the department as part of the plan, and shall be sufficient to recover, but not exceed, the cost of the architectural paint stewardship program. The plan shall require that any surplus funds be put back into the program to reduce the costs of the program, including the assessment amount.

(c) The plan shall address the coordination of the architectural paint stewardship program with existing local household hazardous waste collection programs as much as this is reasonably feasible and is mutually agreeable between those programs.

(d) The plan shall include goals established by the manufacturer or stewardship organization to reduce the generation of postconsumer paint, to promote the reuse of postconsumer paint, and for the proper end-of-life management of postconsumer paint, including recovery and recycling of postconsumer paint, as practical, based on current household hazardous waste program information. The goals may be revised by the manufacturer or stewardship organization based on the information collected for the annual report.

(e) The plan shall include consumer, contractor, and retailer education and outreach efforts to promote the source reduction and recycling of architectural paint. This information may include, but is not limited to, developing, and updating as necessary, educational and other outreach materials aimed at retailers of architectural paint. These materials shall be made available to the retailers. These materials may include, but are not limited to, one or more of the following:

(1) Signage that is prominently displayed and easily visible to the consumer.

(2) Written materials and templates of materials for reproduction by retailers to be provided to the consumer at the time of purchase or delivery, or both. Written materials shall include information on the prohibition of improper disposal of architectural paint.

(3) Advertising or other promotional materials, or both, that include references to architectural paint recycling opportunities.

(f) Any retailer may participate, on a voluntary basis, as a paint collection point pursuant to the paint stewardship program, if the retailer’s paint

collection location meets all of the conditions in Sections 25217.2 and 25217.2.1 of the Health and Safety Code.

SEC. 18. Section 48705 of the Public Resources Code is amended to read:

48705. (a) On or before September 1, 2013, and each year thereafter, a manufacturer of architectural paint sold in this state shall, individually or through a representative stewardship organization, submit a report to the department describing its architectural paint recovery efforts. At a minimum, the report shall include all of the following:

(1) The total volume of architectural paint sold in this state during the preceding fiscal year.

(2) The total volume of postconsumer architectural paint recovered in this state during the preceding fiscal year.

(3) A description of methods used to collect, transport, and process postconsumer architectural paint in this state.

(4) The total cost of implementing the architectural paint stewardship program.

(5) An evaluation of how the architectural paint stewardship program's funding mechanism operated.

(6) An independent financial audit funded from the paint stewardship assessment.

(7) Examples of educational materials that were provided to consumers the first year and any changes to those materials in subsequent years.

(b) The department shall review the annual report required pursuant to this section and within 90 days of receipt shall adopt a finding of compliance or noncompliance with this chapter.

SEC. 19. Section 7.5 of this bill incorporates amendments to Section 25217.2 of the Health and Safety Code proposed by both this bill and Assembly Bill 255. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, but this bill becomes operative first, (2) each bill amends Section 25217.2 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 255, in which case Section 25217.2 of the Health and Safety Code, as amended by Section 7 of this bill, shall remain operative only until the operative date of Assembly Bill 255, at which time Section 7.5 of this bill shall become operative.

SEC. 20. Section 11.5 of this bill incorporates amendments to Section 25404 of the Health and Safety Code proposed by both this bill and Senate Bill 456. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2012, but this bill becomes operative first, (2) each bill amends Section 25404 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 456, in which case Section 25404 of the Health and Safety Code, as amended by Section 11 of this bill, shall remain operative only until the operative date of Senate Bill 456, at which time Section 11.5 of this bill shall become operative.

SEC. 21. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments

sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code, or because the costs may be incurred by a local agency or school district because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 22. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the hazardous waste laws and regulations are fully complied with as soon as possible, and to make other changes relating to emergency response, the handling of hazardous materials, the unified program, and the recycling of paint, thereby protecting the public health and safety and the environment, it is necessary that this act take effect immediately.

O